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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/840,477
Filing Date: April 23, 2001
Appellant(s): CAMERON ET AL.

William A. Zarbis
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed **02.17.2011** appealing from the Office action mailed **09.28.2010**.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 7-9, and 69-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shore [2003/0149662 A1] in view of Ali et al. [US 5,896,411] in view of Phillips Business Information Communications Standards News, and further in view of Business Editors and High-Tech Writers (hereafter Business) (March 2000).

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office

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action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US 20030149662	Shore	August - 2003
US 5,896,411	Ali et al.	April - 1999

Phillips Business Information Communications Standards News, and further in view of Business Editors and High-Tech Writers (hereafter Business) (March 2000)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shore [2003/0149662 A1] in view of Ali et al. [US 5,896,411] in view of Phillips Business Information Communications Standards News, and further in view of Business Editors and High-Tech Writers (hereafter Business) (March 2000).

As per claims 7-9, Shore discloses a system comprising;

- a vendor device having a display interface and electronically coupled to a computer having a wireless transmission port [as illustrated in figure 3 (e.g. **transmitted/received**), and see paragraphs 87-89];

- the transmission occurring via the wireless transmission channel port of the computer to a compatible wireless transmission channel port on a wireless mobile device (710) automatically when the wireless mobile device enters a transmission range of the wireless transmission channel port [via short range data transmission, and as illustrated in figure 6 (e.g. **eTicket System Software components**), and see paragraphs 75, 83, 102-116].

Shore also discloses the step of causing the wireless mobile device (3104) to interact wirelessly with the vendor device (3407) and a related micro payments accounting system [via micropayment system box (0470)]. The interaction with the related micro payments accounting system will cause the vendor device to provide a

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product or service to the holder of the wireless mobile device (via approval of ***transaction using micropayment account 3203***).

Shore further discloses the interaction with a related micro payments accounting system will cause a charge to be made to the account of the holder of the wireless mobile device [***box (0455)***], and/or a charge to be made to the account of the holder of the wireless mobile device produces a debit to a prepaid digital account or aggregates the debit with other current debits to be billed to the account holder at month end [box (482) via settlement procedures as per contractual agreements].

Shore however fails to explicitly disclose a program to take control of the wireless mobile device's menuing, interaction and display functions, and taking control of the wireless mobile device when the wireless mobile device enters a range of the product device.

Ali discloses an enhanced mechanism for the reverse link power control in a wireless communication system, especially for high speed data applications and fixed wireless communication applications, dynamically adjusts the power ***control step size of the reverse link power control***. The power control step size is dynamically adjusted based on various factors including types of service, number of reverse supplemental code channels, total received power at the base station, estimated diversity gain and required mobility, among others. The system which includes stationary infrastructure, can query a subscriber unit's capability in the support of a pre-defined set of power control step sizes before assigning it to the subscriber unit. Furthermore, the subscriber unit may decide its optimized power control step size based on certain feedbacks from

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the system. Ali further discloses an enhancement to the ANSI EIA/TIA-95 system, such that it supports a variable subscriber unit power control step size and associated signaling in accord with this invention [see the abstract].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to incorporate the teaching of Ali in order to facilitate wireless communication operating within a respective service area, which includes a base station and provides wireless communication capability operating in its respective service area [see summary of the invention].

Phillips Business further discloses the Bluetooth SIG technology to enhance and promote that will 'enable a wireless world'. The Bluetooth SIG technology provide an easier way for a variety of mobile computing, communications and other devices to communicate with one another to make wireless connections to the Internet, and to take control of the wireless mobile device's menuing, interaction and display functions [see ***page 2 of Phillips Business Information Communications***].

From this teaching of Phillips Business, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wireless information transfers of Shore-Ali to include a program that takes control of a user's mobile device as taught by Phillips Business Information Communications in order to provide an easier way for a variety of mobile computing, communications and other devices to communicate with one another and to make wireless connections.

Furthermore, Business discloses a Wireless Application Protocol (WAP) technology that allows a variety of handheld communication devices to connect to the

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Internet. WAP requires only that a simple "micro browser" be incorporated into the mobile phone or handheld computer, because the majority of all necessary functionality is built into the communication network. This technology provides a standard data communication interface between WAP- enabled Web sites and handheld devices, thus expanding the reach of those sites. WAP is similar to .java in that it simplifies application development. This reduces the cost of wireless application development and therefore encourages entry to the mobile industry by software developers, such as Access point. When viewing a web site from a wireless device the user will see the information reformatted specifically to match the display format of the device being used.

Therefore, from this teaching of Business, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wireless information transfers of Shore to include a program that takes control of a user's mobile device as taught by Business in order to facilitate purchase of for example a can of coke from a vending machine, all with a cell phone.

Computer-Readable Medium Claims 69-71, and 75, recite the similar limitations as claims 7-9 above. Therefore claims 69-71 and 75 are rejected under the same rationale and same basis using the previously cited references: Shore, Ali, Phillips Business Information Communications Standards News, Business Editors and High-Tech Writers.

Method Claims 72-74, and 76, recite the similar limitations as claims 7-9 above. Therefore claims 72-74 and 76 are rejected under the same rationale and same basis

using the previously cited references: Shore, Ali, Phillips Business Information Communications Standards News, Business Editors and High-Tech Writers.

(10) Response to Argument

Appellant argues that neither Shore nor Ali nor Phillips Business discloses a system, instruction, and method to "display the vendor device's display interface on the mobile device, ... the vendor device's display interface comprising a listing of products offered through the vendor device." The Examiner respectfully disagrees. Shore discloses in paragraph 123, a variety of existing image storage software systems that would be loaded into the PDA from the user's personal computer or at an authorized System outlet or bank. The photo in the PDA would be accessed by opening the `photo album` where the image would be stored and it would then be displayed on the PDA's screen. The image verification would be an additional security measure that would work in conjunction with all the others. Shore further discloses that the System would prompt the User to select eTicket(s) to be redeemed by listing all eTickets available for redemption [see paragraph 206].

Appellant also argues that neither Shore nor Ali nor Phillips nor Business shows "a logic mechanism coupled to the computer and vendor device and configured to cause execution of a program to control a wireless mobile device's display functions to display the vendor device's display interface on the mobile device, the control occurring via the wireless transmission port of the computer and a compatible wireless transmission port on the wireless mobile device automatically in response to the wireless mobile device entering into transmission range of the computer's wireless

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transmission port, the vendor device's display interface comprising a listing of products offered through the vendor device". The Examiner respectfully disagrees. Shore discloses systems and methods to wirelessly pay for purchases, electronically interface with financial accounting systems, and electronically record and wirelessly communicate authorization transactions using Personal Digital Assistant ("PDA")(also referred to as Personal Intelligent Communicators (PICs), and Personal Communicators), palm computers, intelligent handheld cellular and other wireless telephones, and other personal handheld electronic devices configured with infrared or other short range data communications (for referential simplicity, such devices are referred to herein as "PDA's") [see summary of the invention].

Shore in view of Ali further discloses an enhanced mechanism for the reverse link power control in a wireless communication system, especially for high speed data applications and fixed wireless communication applications, dynamically adjusts the power ***control step size of the reverse link power control*** [see rejection above]. Ali further discloses that the base station establishes communications on both the forward link and reverse link with an SU [see Ali: summary of the invention].

Ali also discloses a wireless communication system, especially for high speed data applications and fixed wireless communication applications, dynamically adjusts the power control step size of the reverse link power control. The power control step size is dynamically adjusted based on various factors including types of service, number of reverse supplemental code channels, total received power at the base station,

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estimated diversity gain and required mobility, among others [see summary of the invention].

However, Phillips Business further discloses the Bluetooth SIG technology to enhance and promote that will 'enable a wireless world'. The Bluetooth SIG technology provide an easier way for a variety of mobile computing, communications and other devices to communicate with one another to make wireless connections to the Internet, and to take control of the wireless mobile device's menuing, interaction and display functions [see ***page 2 of Phillips Business Information Communications***].

Furthermore, Business discloses a Wireless Application Protocol (WAP) technology that allows a variety of handheld communication devices to connect to the Internet. WAP requires only that a simple "micro browser" be incorporated into the mobile phone or handheld computer, because the majority of all necessary functionality is built into the communication network.

The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately. The prior art differs from the claim by the substitution of some components. The substituted components were known. The technical ability existed to substitute the components as claimed and the result of the substitution is predictable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Garcia Ade/

Examiner, Art Unit 3687

/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687

Conferees:

/Matthew S Gart/

Supervisory Patent Examiner, Art Unit 3687

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Appeal Conference Specialist